

### **REMARKS**

Claims 41, 64, 70, 91-92, 114, and 117-119 have been amended, and claims 44 and 67 have been canceled. Therefore, claims 16-17, 19-25, 41, 43, 45-47, 49-54, 64, 66, 68-70, 72-79, 83-96, 100-104, 108-112, 114-120, 122-124, and 126-129 are now pending in this application.

### **§ 251 Recapture Rejection**

Claims 41, 43, 46, 64, 66, and 69 have been rejected under 35 USC § 251 for claiming subject matter that would have been improperly recaptured in a broadening reissue. Applicant has amended independent claims 41 and 64 to include the limitations of non-rejected claims 44 and 67. Accordingly, applicant believes that any issue with respect to recapture estoppel has been eliminated by this amendment.

### **§ 251 New Matter Rejection**

Claims 47, 49-54, 64, 66-70, 72-79, 83-88, 95-96, 100-104, 108-120, and 122-129 have been rejected under 35 USC § 251 for claiming subject matter that would constitute new matter.

In regard to claim 1, the Examiner indicates that "[w]hen the stationary portion is 'held' in position, there is no explanation of how a portion of the stationary portion is also not held so as to be in non-alignment." The Examiner is concerned that the claim requires that "the stationary portion...be both 'held in a stationary position with a portion of the seal ridge' (lines 14-16) as well as having 'a portion of the stationary portion reside in non-alignment with the seal surface'". The Examiner's attention is directed, in particular, to Figures 4 and 5 of the present application. As shown particularly in Figure 5, there is a portion of the stationary portion (in the center) that is not aligned with the stationary portion (over the seal surfaces). Please note that the stationary portion is also disposed in the cross-sectioned drawing on the left and right sides of the flap. This non-alignment is further shown in Figure 4 where the profile block 16 causes the flap 7 to be recessed in non-alignment with the flap 7 above the sealing surface at the point where the profiled block presses down upon the flap. That is, there is a portion of the flap stationary portion that is in non-alignment with the portion above the seal surface. The portion of the stationary portion that is held in position with seal surface 9a is held in a stationary position. The portion of the flap stationary portion pressed below the seal surface 9a is held in non-

alignment with the portion resting on the seal surface. Thus, there is a portion of the stationary portion that resides in non-alignment with the portion contacting the seal surface.

In regard to claim 64, applicant has amended this claim to eliminate any issue with respect to new matter. The language objected to has been removed from the claim.

Claim 70 also has been amended to eliminate any issue with respect to new matter. The "off-center" language has been removed from the claim.

In regard to claim 86, support for the objected language may be found in the specification at column 4, lines 2-7 and in Figures 4 and 5. At these locations, the specification describes a transverse curvature and a longitudinal curvature. The present specification therefore does support a valve flap that exhibits a curvature "at least in a direction transverse to the longitudinal axis." According to the explicit wording in the description, the flexible flap may be curved in both the transverse and longitudinal directions, or in "at least" the transverse direction.

In regard to the objection to claim 92, this claim has been amended to eliminate any issue with respect to new matter. The phrase "assisted at least in part" has been replaced with "accentuated".

With respect to claim 95, there are additional features besides the block 16 that assists in maintaining the flap in a curved position. Please note that the non-alignment between the seal surfaces 9a, 9b, and 9c and the first force exerted upstream from block 16 causes a portion of the stationary portion of the flap to reside beneath the seal surfaces. This non-alignment and relative positioning between the upstream force location and the seal surfaces results in a fixed curvature being applied to the flap. This fixed curvature assists in creating the bias needed to allow for valve closure. Similar arguments may be applied to claims 104, 111, 120, and 122.

### **§ 102 Rejections**

Claims 41, 43, 44, 46, 64, 66, 67, and 69 have been rejected under 35 USC § 102(b) for being anticipated by U.S. Patent 2,105,183 to Cover. Applicant respectfully submits that this rejection cannot be sustained.

Applicant has amended claims 41 and 64 to include further limitations that are not described by Cover. For example, claim 41 includes a stationary end and an opposing free end. Cover does not have a stationary end opposite the free end. In Cover, there is no stationary end.

Cover is mounted centrally, and therefore is stationary in the center — not at a stationary end. Cover's ends are both free to move. Further, applicant's claim 41 indicates that there is only one free end. Cover has first and second free ends. Claim 64 similarly requires that the flexible flap also have only one free end. Because Cover has two free ends, it does not anticipate the subject matter of claims 41 and 64. Since the remaining claims depend from each of these claims, they too are not anticipated by Cover.

### **§ 112 Rejections**

Claims 41, 43-46, 64, 66-69, 91, 114, 115, and 117-119 have been rejected under 35 USC § 112, second paragraph, for being indefinite. Applicant has amended each of these claims to provide for the appropriate antecedent basis and to correct the claim dependency. The Examiner is thanked for noting these errors.

In view of the above, applicant believes that the present application is in condition to be allowed. Please further examine the application in light of the amendments to the claims and the remarks presented above.

Respectfully submitted,

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